

AN ACT

ENTITLED, An Act to revise certain requirements for insurance producers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 58-1-2 be amended to read as follows:

58-1-2. Terms used in this title mean:

- (1) "Alien insurer," one formed under the laws of any country or jurisdiction other than the United States of America, its states, districts, territories, and commonwealths;
- (2) "Authorized insurer," one authorized, by a subsisting certificate of authority issued by the director, to engage in the insurance business in this state;
- (3) "Certificate of authority," permission granted to an insurer to issue policies or make contracts of insurance in this state;
- (4) "Director," the director of the Division of Insurance;
- (5) "Division," the Division of Insurance of the Department of Revenue and Regulation;
- (6) "Domestic insurer," one formed under the laws of this state;
- (7) "Foreign insurer," one formed under the laws of any jurisdiction other than this state; except where distinguished by context, foreign insurer includes an alien insurer;
- (8) "Insurance," a contract whereby one undertakes to indemnify another or to pay or provide a specified or determinable amount or benefit upon determinable contingencies;
- (9) "Insurance business," includes the transaction of all matters pertaining to a contract of insurance, both before and after the effectuation of that contract, and all matters arising out of that contract or any claim thereunder;
- (10) "Insurer," every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance;
- (11) "License," permission granted to an agent or broker to engage in those activities permitted

by such persons under this title;

- (12) Repealed by SL 2001, ch 263, § 1.
- (13) "Mechanical breakdown insurance," any contract or agreement, issued by an authorized insurer, to perform or indemnify for a specific duration the repair, replacement, or maintenance of property for operational or structural failure due to a defect in materials, workmanship, or normal wear and tear;
- (14) "Person," an individual, insurer, company, association, organization, Lloyds, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity;
- (15) "Principal office" or "principal place of business," the office or regional home office from which the business affairs of the insurer are directed and managed;
- (16) "Producer," any person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. The terms also means an insurance agent;
- (17) "State," when used in context signifying a jurisdiction other than the State of South Dakota, a state, the District of Columbia, a territory, commonwealth, or possession of the United States of America, or a province of the Dominion of Canada; and
- (18) "Unauthorized insurer," one which does not hold a subsisting certificate of authority issued by the director to engage in the insurance business in this state.

Section 2. That § 58-30-174 be amended to read as follows:

58-30-174. No insurer may pay or assign a commission, service fee, brokerage fee, or any other valuable consideration for a referral to any person not appropriately licensed pursuant to this chapter unless the payment or assignment is a fixed dollar amount that is not related to the amount of commission or premium for an insurance transaction and that is not dependent upon whether the referral results in a transaction.

Section 3. That § 58-30-142 be amended to read as follows:

58-30-142. Terms used in §§ 58-30-141 to 58-30-195, inclusive, mean:

- (1) "Agent of the insurer," any insurance producer who is compensated directly or indirectly by an insurer and sells, solicits, or negotiates any product of that insurer;
- (2) "Agent of insured," any insurance producer or person who secures compensation from an insured or insurance customer only and receives no compensation directly or indirectly from an insurer for a transaction with that insured or insurance customer;
- (3) "Business entity," a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity;
- (4) "Home state," the District of Columbia and any state or territory of the United States in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business and is licensed to act as an insurance producer;
- (5) "Limited line credit insurance," includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance director determines should be designated a form of limited line credit insurance;
- (6) "Limited line credit insurance producer," any person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy;
- (7) "Limited lines insurance," those lines of insurance defined in § 58-30-68 or any other line of insurance that the insurance director may deem it necessary to recognize for the purposes of complying with § 58-30-163;

- (8) "Limited lines producer," any person authorized by the insurance director to sell, solicit, or negotiate limited lines insurance;
- (9) "Negotiate," the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;
- (10) "Sell," to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;
- (11) "Solicit," attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;
- (12) "Terminate," the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

Section 4. That § 58-30-1 be repealed.

Section 5. That § 58-30-74 be amended to read as follows:

58-30-74. All licenses and appointments issued under this title shall continue in force until expired, suspended, revoked, or otherwise terminated, but are subject to renewal by payment to the director annually of the applicable fee as stated in § 58-2-29 upon notice by the director. Any request for renewal of a surplus line broker license shall be made by the licensee.

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I certify that the attached Act
originated in the

SENATE as Bill No. 35

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 35

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State